

REMARKS

Claims 24-39 and 58-80 are pending. Claims 24-39, which were previously canceled from this application and the co-pending parent application (Application No. 10/263,518), have been re-entered for prosecution as claims 81-96. As with claims 58-80, claims 81-96 are drawn to a skin antiseptic dispenser having resistance to ethylene oxide penetration. Claims 32-39 were provisionally rejected in the parent application for obviousness-type double patenting over claims 58-67 of the present application. A copy of the office action showing the double patenting rejection is included herewith for the Examiner's convenience. Reconsideration of the application is requested.

Examiner Interview

Applicants thank the Examiner for the courtesy of a telephonic interview on October 12, 2007. Consideration of the Supplemental IDS's submitted on May 23, 2007 and July 9, 2007 was requested by the Applicants. A copy of the supplemental IDS's and copies of the nonpatent literature cited are attached herewith.

Regarding the 102(e) rejection over the U.S. Patent No. 6,585,693, the Examiner indicated that, after considering the reference documents ("Sterilization by Ethylene Oxide" from Achieving Sterility on Medical Products, 1994, and Transport of ethylene oxide through polymer films from the Journal of Applied polymer Science, 1987, copies of which are attached herewith), the surprising results presented by the Applicants in the present disclosure are evident. It was agreed that the outstanding 102(e) rejection over the Dischler reference has been overcome. The Examiner requested that the reference documents be made of record.

Applicants indicated to the Examiner that they will file a Request for Continuing Examination i) to enter the reference documents cited above into the prosecution record, ii) to provide the Examiner with copies of the nonpatent literature for the IDS's filed on May 23 and July 9, and iii) to re-enter claims 24-39 for consideration.

§ 102 Rejections

Claims 58-60 and 62-75 stand rejected under 35 USC § 102(e) as being anticipated by Dischler (U.S. Patent No. 6,585,693). Applicants respectfully disagree. MPEP 2131 states "To anticipate a claim, the reference must teach every element of the claim."

Applicants assert that Dischler does not teach every element of their claimed inventions, i.e., Dischler does not teach dispensers that are substantially impermeable to ethylene oxide (see references attached herein).

The rejection of claims 58-60 and 62-75 under 35 USC § 102(e), as being anticipated by Dischler, has been overcome and should be withdrawn.

§ 103 Rejection

Claims 76 and 77 stand rejected under 35 USC § 102(e) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Dischler (U.S. Patent No. 6,585,693). Claim 76 and 77 are dependent claims, each adding additional features to claim 58 or, alternatively, to claim 73. For at least the reasons stated above, Applicants argue that claims 58 and 73 are patentable over Dischler. Thus, claims 76 and 77 are likewise patentable.

The rejection of claims 76 and 77 under 35 USC § 102(e) or 35 USC § 103(a) as being unpatentable over Dischler has been overcome and should be withdrawn.

Summary

Applicants argue that independent claims 58 and 73 are patentable for at least the reasons given above. Claims 59-72 and 74-80 each add additional features to claim 58 or claim 73, respectively. Thus, claims 59-72, and 74-80 are likewise patentable.

In summary, the rejection of claims 58-80 has been overcome and should be withdrawn.

In view of the above, it is submitted that the application is in condition for allowance. Reconsideration of the application is requested.

Respectfully submitted,

November 6, 2007
Date

By: Nancy M. Lambert
Nancy M. Lambert, Reg. No.: 44,856
Telephone No.: 651-733-2180

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833